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REMARKS

Claims 14-37 are pending. Claims 1-13 are cancelled and claims 14-16, 19, 25, 29 and 30 have been amended. Claims 14 and 30 are amended to further define the invention. The remainder of the claims are amended to more clearly claim the invention. New claims 31-37 have been added.

Applicants note that claim 17 and a portion of claim 25 did not print on the prior amendment. Claims 17 and 25 are listed as New and Currently Amended, respectively. Applicants apologize for any inconvenience.

Applicants note with appreciation that the Examiner indicated that claims 16, 18, 28 and 29 are objected to but would be allowable if rewritten to include the limitations of the claim or claims from which they depend. Applicants have rewritten claims 16 and 18 as new claims 33 and 34. In addition, Applicants have added claims 31 and 35 based, respectively, on the elements of original claims 14 and 15, and claims 14, 20 and 26. Claims 32, 36 and 37 further define the claimed invention. No new matter has been added.

Applicants, however, do not agree with the Examiner's statement regarding claim 16. Claim 16 does not "require the clip to be in the unbiased position before entering the second lumen." Claim 16 states that "the first end of the tissue securing element is permitted to assume the unbiased configuration prior to the second end of the tissue securing element being permitted to assume the unbiased configuration." Claim 16 does not require that the tissue securing element be unbiased before entering the second lumen. Applicants submit that the Bolduc publication does not teach or suggest the elements of claim 16.

The Examiner rejected claims 14, 15, 19-27 and 30 under 35 USC § 102(e) as being anticipated by Bolduc 2003/0114867 (the Bolduc publication). Applicants traverse the rejection.

Claim 14, as amended, claims a method for anastomosing a first hollow tissue structure to a second hollow tissue structure having an aperture, including the steps of

- providing an anastomosis device comprising a body having at least one opening, and at least one tissue securing element having a first end and a second end, the tissue securing

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element comprised of a material capable of being biased from an unbiased configuration to a biased configuration, the tissue securing element configured to be at least partially disposed within the at least one opening;

- holding the at least one tissue securing element in the biased configuration in the at least one opening;
- inserting at least the first end of the at least one tissue securing element through an opening in a second hollow tissue structure while the tissue securing element is in the biased configuration; and
- permitting the tissue securing element to move from the biased configuration to the unbiased configuration such that the first end and the second end of the tissue securing element compress a portion of the end of a first hollow tissue structure and a portion of the second hollow tissue structure adjacent to the opening.

Claim 30 is amended in a similar manner to claim 14.

The Bolduc publication does not teach or suggest an anastomosis device having a body having at least one opening and at least one tissue securing element, where the tissue securing element is held in the biased configuration in the opening. Instead, paragraph 78 of the Bolduc publication states that the "clip may be isothermally transformed from an open to a closed shape by using needle drivers or other suitable instruments to hold distal point 198D away from proximal extremity 195D then release the distal point after it has been applied to tissue." In other words, referring to Figure 12D, the Bolduc publication describes physically holding the distal point 198D of clip 192D apart from proximal portion 195D prior to passing the distal point of the clip through tissue with needle drivers or some other instrument. Such a method requires the use of at least one additional pair of hands to hold or manipulate the needle drivers. The Bolduc publication does not teach or suggest holding the at least one tissue securing element in the biased configuration in at least one opening. With the claimed method, the device itself holds the at least one tissue securing element in the biased configuration. The Bolduc publication does not anticipate each element of claims 14 or 30 as it does not teach or suggest holding the at least one

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tissue securing element in the biased configuration in at least one opening. Applicants request the Examiner to withdraw the rejection.

Applicants also submit that new claims 31 and 35 are patentable over the Bolduc publication. Claim 31 is based the elements of original claims 14 and 15. Claim 31 includes the amendment to claim 15 to clarify the language of the claim. Claim 31 claims a method for anastomosing a first hollow tissue structure to a second hollow tissue structure having an opening, where the method includes the step of permitting the tissue securing element to move from the biased configuration to the unbiased configuration such that the first end and the second end of the tissue securing element compress a portion of the end of a first hollow tissue structure and a portion of the second hollow tissue structure adjacent to the opening, at which time the first end of the tissue securing element does not penetrate through the wall of the second hollow tissue structure. Support for this claim element is found in at least at Figures 24-26, where the first end of the tissue securing elements (in this case 82) do not penetrate through the second hollow tissue structure. Claim 31 requires that the first end of the tissue securing element does not penetrate through the wall of the second hollow tissue structure as opposed to what is shown in Figure 13C of the Bolduc publication, which shows the first end of the tissue securing element penetrating through the wall of the second hollow tissue structure. In contrast to claim 31, claim 32 requires that the first end of the tissue securing element does not pierce the inner wall of the second hollow tissue structure. The Bolduc publication neither teaches nor suggests such methods, and as such Applicants submit that claim 31 is novel and should be allowed.

Similarly, claim 35 is novel over the Bolduc publication. Claim 35 is based the elements of original claims 14, 20 and 26. Claim 35 claims a method for anastomosing a first hollow tissue structure to a second hollow tissue structure having an opening, wherein the method includes the step of permitting the tissue securing element to move from the biased configuration to the unbiased configuration such that the first end and the second end of the tissue securing element compress an inner surface of the everted end of the first hollow tissue structure and an outer surface of the second hollow tissue structure adjacent to the opening. Support for the underlined

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claim element is found in at least at Figure 25, which clearly depicts the compression of inner surface of everted first hollow tissue structure T1 and outer surface of the second hollow tissue structure T2 adjacent to the opening. The Bolduc publication neither teaches nor suggests such a method, and as such Applicants submit that claim 35 is novel and should be allowed.

Applicants submit a three month extension of time to extend the time to respond to the outstanding office action, along with a fee sheet to pay for the additional claims. In addition, Applicants will submit an Information Disclosure Statement and Form 1449, under separate cover by mail.

The Examiner is requested to telephone the undersigned if a discussion would further the prosecution of the pending claims.

Respectfully submitted,

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